

# **Fourteenth Annual Report on the Operation of Section 72 of the Climate Change (Scotland) Act 2009**

Laid before the Scottish Parliament by the Scottish Ministers under  
Section 73 of the Climate Change (Scotland) Act 2009

SG/2024/29  
28 March 2024

## 1. Summary

1.1 Annual reporting on the operation of Section 3F of the Town and Country Planning (Scotland) Act 1997 (as introduced by Section 72 of the Climate Change (Scotland) Act 2009) is a requirement of Section 73 of the Climate Change (Scotland) Act 2009.

1.2 Annual reporting on the legislation must consider its operation, effectiveness, and continuing need. This report also addresses matters highlighted in the previous annual report.

1.3 Section 3F states:  
'A planning authority, in any local development plan prepared by them, must include policies requiring all developments in the local development plan area to be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use, calculated on the basis of the approved design and plans for the specific development, through the installation and operation of low and zero-carbon generating technologies.'

1.4 The previous annual report noted in its conclusion:  
'...that changes planned in building and heat standards may mean that Section 3F may not be required in the future.'

1.5 National planning policies now go further than Section 3F and consider lifecycle as well as in-use emissions. There is also a new system of local development planning in place, which does not require repetition of national planning policies. The New Build Heat Standard, coming into force on 1 April 2024 through building regulations, targets heating related emissions as a significant source and removes current emissions compliance calculation methodology.

1.6 On balance it is concluded that after 1 April 2024 the latest policy and regulatory position goes beyond what Section 3F can achieve and that the requirement to include policies within development plans under Section 3F is no longer necessary.

1.7 This report also finds that removing Section 3F ensures that resources are used most efficiently and reflects a natural progression of policy that forms internationally strong leadership on emissions reduction, which will continue as National Planning Framework 4 and the New Build Heat Standard are applied.

1.8 The conclusion that the legislation is no longer necessary enables Scottish Ministers to prepare an Order to repeal the legislation, as provided for by Section 73(2) of the Climate Change (Scotland) Act 2009.

## 2. Legislation

2.1 Section 72 of the Climate Change (Scotland) Act 2009<sup>1</sup> ('the 2009 Act'), which came into force on 1 April 2010, introduced Section 3F into the Town and Country Planning (Scotland) Act 1997<sup>2</sup> ('the 1997 Act'). This report will refer to Section 3F.

Section 3F requires that:

'A planning authority, in any local development plan prepared by them, must include policies requiring all developments in the local development plan area to be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use, calculated on the basis of the approved design and plans for the specific development, through the installation and operation of low and zero-carbon generating technologies.'

2.2 Scottish Ministers are required by Section 73(1) and (2) of the 2009 Act to report annually to the Scottish Parliament on:

- the operation of the requirement on relevant planning authorities to include policies within development plans;
- an assessment of whether the Section 3F requirements have contributed effectively to the reduction of greenhouse gas emissions from developments; and
- whether Section 3F continues to be needed.

2.3 If Section 3F is considered no longer needed, Section 73(2) enables Scottish Ministers to repeal it and Section 73, by order.

## 3. Understanding the legislation and guidance on it

### Responsibility for implementation

3.1 The provision in Section 3F is a requirement for relevant policy to be included in local development plans (LDPs). It is therefore a responsibility of planning authorities.

3.2 That requirement does not over-ride Section 25 of the Town and Country Planning (Scotland) Act 1997, which is clear that decisions on planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. Development plan policies do not operate as a check-box list of mandatory compliance criteria for new buildings. The relevant policies and any other material considerations relating to a planning application are identified and given such weight for decision making as determined appropriate by planning authorities.

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<sup>1</sup> [Climate Change \(Scotland\) Act 2009](#)

<sup>2</sup> [Town and Country Planning \(Scotland\) Act 1997](#)

## Operational emissions

3.3 The legislation aims to ‘avoid’ (or save) emissions otherwise created from the operation and use (known as operational emissions) of new buildings. This excludes construction and demolition of the building and transport to and from it. Therefore, emissions savings relate to emissions otherwise created through heating, and the electricity used for operation of the services within a building. Non-heating services include those that are fixed, like lighting and mechanical ventilation, and are generally powered by electricity. In practice moveable electronic appliances in homes and other plugged-in devices such as for industrial and commercial processes, among other things, do not form part of building level operational emissions calculation methodology as has been deployed for compliance calculation for building regulations.

## Low and zero-carbon generating technologies

3.4 Section 3F operates on the basis that there are emissions from the energy source for the operation and use of the building that can be avoided, by using low and-zero carbon generating technologies at the building to provide energy instead. The legislation seeks only the use of generating technologies to achieve the avoidance, not energy efficiency measures such as improved glazing or more energy efficient building fabric such as additional insulation.

## Amount of emissions to be avoided

3.5 The legislation operates on the basis that the low and zero-carbon generating technologies will avoid a proportion of the emissions otherwise to be created by the operation and use of the building. It does not specify the proportion of emissions to be saved, that is identified locally by planning authorities. It does not require that the technologies will avoid all emissions otherwise created by the operation and use of the building.

## Matters for reporting

3.6 In addition to the statutory requirements for reporting set out by Section 73 of the Climate Change (Scotland) Act 2009, the Thirteenth Annual Report<sup>3</sup> (the ‘previous annual report’) (Laying number SG/2023/40) set out that future reports will consider:

- how the reporting requirements of the Climate Change (Scotland) Act 2009 can be met proportionately in relation to the new system of local development planning arising from the Planning (Scotland) Act 2019;
- how annual reporting should continue to be used as a means of providing guidance to planning authorities and developers; and
- whether the changes to building and heat standards outwith the planning system mean that Section 3F is no longer required.

These matters are addressed in this report.

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<sup>3</sup> [Climate Change Act – Section 72: thirteenth annual report](#)

## Guidance

3.7 LDP policies implementing the legislation should have three elements:

- a proportion of emissions to be saved;
- at least one increase in the proportion of emissions to be saved; and
- a requirement that savings should be achieved using generating technology (rather than energy efficiency measures).

3.8 The previous annual report referred to research<sup>4</sup> commissioned by the Scottish Government and published in 2021. This research aimed to identify a nationally applicable set of terms that would comply with the three elements required by Section 3F. The research proposed that the approach closest to the requirements of Section 3F, does not specify on the face of the policy an increase in the proportion of greenhouse gas emissions to be saved. Whilst the Scottish Government has made this research available, it does exemplify the challenge in making Section 3F operable.

## 4. Operation and effectiveness

### Operation

4.1 The Scottish Government responds to queries about Section 3F and has a formal role to provide representations, where necessary, about proposed LDPs on the basis of legislation, policy and guidance. Section 3F has previously formed the basis of some representations.

4.2 On 19 May 2023 regulations<sup>5</sup> ('the 2023 regulations') came into force which commenced the new system of local development planning. As included in the previous annual report, the new system is a streamlining action, removing elements of the previous system (for example the main issues report).

4.3 Adoption of National Planning Framework 4<sup>6</sup> (NPF4) by Scottish Ministers in February 2023 made it part of the statutory development plan, under the Town and Country Planning (Scotland) Act 1997 (as amended)<sup>7</sup>. That means it can be applied directly to decision making on planning applications being determined by planning authorities locally across Scotland. LDPs are to include the planning authority's policies and proposals but are not required to duplicate the thematic policies set out in NPF4. NPF4 is clear that:

'Where a policy states that development will be supported, it is in principle, and it is for the decision maker to take into account all other relevant policies.'

As a result, NPF4 identifies the development that the Scottish Government wants to see brought forward in contributing to the planning and delivery of sustainable, liveable, and productive places.

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<sup>4</sup> [Planning policy - section 3F: research](#)

<sup>5</sup> [The Town and Country Planning \(Development Planning\) \(Scotland\) Regulations 2023](#)

<sup>6</sup> [National Planning Framework 4](#)

<sup>7</sup> [Town and Country Planning \(Scotland\) Act 1997](#)

4.4 The Local Development Planning Guidance<sup>8</sup> for the new development planning system is clear that:

‘LDPs should consider the ambitions and outcomes for an area, looking 20 years ahead. LDPs should focus on showing the spatial implications of national policy for different places, and will have fewer thematic policies and written text than previously. They can, however, include local policies that reflect local issues and context, where the planning authority considers this is required.’

It also states that:

‘LDPs are expected to be place-based, visual plans with the inclusion of a clear spatial strategy reflected more in a collection of maps, development briefs and masterplans, than in lengthy written text and policy.’

4.5 Section 3F was not designed for the new approach to LDPs. As Section 3F is a legislative requirement that comes through the Climate Change (Scotland) Act 2009 rather than the Planning Acts, it is unaffected by the Planning (Scotland) Act 2019. It continues to apply and require specific policy to be included in LDPs in an approach reflective of the planning system in 2009 (when the Climate Change (Scotland) Act was passed).

4.6 The new system of local development planning means that it is unlikely that Section 3F would be a feature of the new evidence reports, as it is not a policy that requires evidence to inform spatial options. All planning authorities are beginning preparation of their new style LDPs. Scottish Ministers have indicated that we expect all planning authorities to have adopted an LDP under the 2023 regulations by May 2028. No evidence reports have yet been submitted to Scottish Ministers for the new Gate Check process. Under the new process, only at the proposed LDP stage would it be clear whether a policy responding to Section 3F had been included. Therefore, in considering operation and effectiveness to February 2024, this report focuses on the old style LDPs and adopted LDPs.

4.7 The previous annual report identified 32 adopted LDPs in 2022/3. That number remains the same for 2023/4 as a single LDP (Aberdeen Local Development Plan<sup>9</sup>) has been adopted (replacing a previously adopted LDP) between 15 February 2023 and 13 February 2024. That plan contains a Section 3F type policy meaning there is no change to the previously reported number of adopted LDPs that contain policy that appears to respond to Section 3F. The number of plans containing a Section 3F type policy is:

- Section 3F policy – 32; and
- No Section 3F policy – 2.

4.8 Transitional arrangements between the old and new local development planning procedures, mean that it is only those proposed LDPs that had been advertised for consultation before 12 February 2023 that can proceed to adoption using procedures as set out under the previous local development planning

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<sup>8</sup> [Local development planning guidance](#)

<sup>9</sup> [Aberdeen Local Development Plan 2023, Policy R6 – Low and Zero Carbon Buildings, and Water Efficiency](#)

regulations. There are five LDPs being progressed under the previous procedures as of 13 February 2024. Of those, one is supplementary to the Highland Wide LDP. It is not considered further for Section 3F as the Highland Wide LDP is included in the overall LDP count above, consistent with the approach taken in the previous annual report. All of the remaining four LDPs were considered to include a policy that appeared to respond to Section 3F.

## Effectiveness

4.9 There are two main and linked aspects to Section 3F: reducing greenhouse gas (GHG) emissions and deploying low and zero-carbon generating technology to do so.

4.10 The previous annual report identified four typologies for the adopted LDP policies responding to Section 3F:

- Type 1 - achieve building regulations emissions standards;
- Type 2 - go beyond building regulations emissions standards;
- Type 3 - meet or go beyond building regulations emissions standards; and
- Type 4 - not clearly relating to building regulations emissions standards.

4.11 As the single change in adopted LDPs didn't alter the typology, the numbers of policies falling within each typology remains the same as reported in the previous annual report:

- Type 1 – 26;
- Type 2 – 0;
- Type 3 – 2; and
- Type 4 – 4.

4.12 For proportionality in reporting, as there is only one change to the adopted LDPs since the previous annual report, the annex of links to the adopted LDPs is not repeated in this report but a link to the most recently adopted LDP has been provided.

4.13 As reported in previous annual reports, research<sup>10</sup> published in 2016 (commissioned by the Scottish Government) in relation to Section 3F, found that for reducing emissions, building regulations were the driving force, rather than Section 3F polices. The 2016 research also identified a role for Section 3F in raising awareness of more sustainable buildings. In relation to building proposal compliance with Section 3F, the 2016 research found that across the five authorities in the sample, building compliance with Section 3F, based on building warrant data, varied from just over a third of buildings, to almost complete compliance.

4.14 However, the research<sup>11</sup> in 2021 urged caution in the specification of the proportion of emissions to be saved using low and zero-carbon generation technologies, because of the risk that too much reliance on the generating technologies could erode the use of energy efficient building fabric and related construction methods, that seek to reduce the demand a building creates for energy.

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<sup>10</sup> [The Effectiveness of Greenhouse Gas Emission Policies in Scottish Local Development Plans](#)

<sup>11</sup> [Planning policy - section 3F: research](#)

4.15 The development plan (NPF4 and the local development plan) should inform the design approaches to buildings proposed in planning applications. This is because decisions on planning applications are based on the development plan in the first instance, in addition to material considerations relevant to the application. This means that building designers should consider how their proposals help achieve the policy aims of the development plan. Designers will also need to consider how their proposals will achieve the requirements of building regulations to avoid needing to amend designs that have already secured planning permission.

4.16 As indicated in Section 3 above, it is for the relevant planning authority as the decision maker to reach a decision as to whether the proposed development accords with the development plan, and the effect of material considerations they identify on the decision. All decisions are accompanied by a Report of Handling setting out, among other things, the material considerations applying to the particular decision, and how they were considered in reaching that decision.

4.17 The following matters challenge the effectiveness of Section 3F as a legislative / policy approach to avoiding GHG emissions:

- NPF4;
- New Build Heat Standard; and
- Related building regulations energy standards.

4.18 Our building regulations, the New Build Heat Standard, and NPF4 work together, and each plays a distinctive part in setting technical standards and supporting the types of development we want to see coming forward in meeting those standards, to help Scotland reach net-zero emissions.

#### NPF4

4.19 Whilst Section 3F considers the avoidance of a proportion of operational emissions using a low and zero-carbon generating technology approach, NPF4 Policy 2 'Climate mitigation and adaptation', seeks the minimisation of lifecycle emissions of new development and is flexible to allow designers to propose the most appropriate route to do so.

4.20 A strong connection between LDP policy responses to Section 3F and building regulations is demonstrated by the high number of LDPs where the relevant policy is linked to the building regulations (paragraphs 4.10 and 4.11). This can mean that compliance with Section 3F is based on the methodology used to date to demonstrate compliance with building regulations (the target emissions rate approach). Indeed the 2021 research proposed calculation methodology linked to that used for building regulations compliance. Building regulations compliance methodology for operational emissions are those which are not construction or transport related and consider fixed building services:

- heating;
- lighting;
- ventilation; and
- auxiliary services.



4.21 NPF4 Policy 11 ‘Energy’ supports all forms of renewable, low-carbon and zero emissions technologies including small scale renewable energy generation technology. This means that a clear policy driver for low and zero-carbon generating technologies exists at a national level and is applicable to decision-making on new development locally.

4.22 NPF4 Policy 19 ‘Heat and cooling’ supports buildings designed to promote sustainable temperature management, for example through passive solutions, and it is clear that where development proposals are within or adjacent to a Heat Network Zone identified in a LDP, they will only be supported where they are designed and constructed to be connected to the existing heat network.

4.23 NPF4 Policy 26 ‘Business and industry’ is clear that major developments for manufacturing or industry will be accompanied by a decarbonisation strategy to demonstrate how greenhouse gas emissions from the process are appropriately abated.

4.24 These policies represent a more holistic approach to emissions reduction than is presented by the approach set out in Section 3F. These approaches apply nationally. Whilst Section 3F is a nationally set policy, the detail of its content in relation in particular to the level of the proportion of emissions to be avoided through the use of low and zero-carbon generating technology, is set locally and so varies. It is also evident that while inclusion of policies responding to Section 3F was high in adopted LDPs, not all adopted LDPs contain a relevant policy.

4.25 In addition, while national policies in NPF4 are not required to be repeated locally, that is not the case for Section 3F. While Section 3F is in-force LDPs need to contain a relevant policy. That means for LDP preparation, the policy has to be prepared, consulted on and then adopted. The process requires input of resources from the planning authority, stakeholders engaged in its preparation, and Scottish Ministers.

#### New Build Heat Standard

4.26 As reported in the previous annual report, The Climate Change Plan Update<sup>12</sup> of 2020 included an emissions sector related to buildings. It stated that, at the time, 20% of Scotland’s GHGs were caused by heat in buildings and sought a rapid move to low and zero emissions heating systems.

4.27 The previous annual report highlighted the introduction of the New Build Heat Standard (NBHS). On 1 April 2024 the NBHS will come into force through building regulations<sup>13</sup>. This has a significant impact on the onward effectiveness of Section 3F, as it addresses the dominant source of emissions currently included in building regulations compliance, heating.

4.28 NBHS will require new building proposals constructed under a building warrant applied for on or after 1 April 2024 to achieve zero direct emissions for water

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<sup>12</sup> [Securing a green recovery on a path to net zero: climate change plan 2018–2032 - update](#)

<sup>13</sup> [The Building \(Scotland\) Amendment Regulations 2023](#)

and space heating. This effectively removes the option of an on-site fossil fuel or biofuel-based heating solution in new development. Heating systems will need to meet the terms of the regulations, which may be through on-building options like heat pumps, or off-site options like heat networks. It is for building designers to decide how they propose to meet the terms of the regulations.

4.29 The NBHS brings a change to reporting on emissions through building regulations. The long-standing approach of undertaking a calculation as part of a building warrant process to meet a 'target emissions rate' will be withdrawn, as all permitted heating solutions are zero direct emissions. Instead, overall performance targets for new buildings are set on the basis of delivered energy, a new metric introduced in February 2023.

4.30 Accordingly, after 1 April 2024, application of Section 3F would exclude heating (as no on-site fossil-fuelled based alternative would be capable of achieving a building warrant). That would then focus Section 3F onto the remaining operational emissions; lighting, ventilation, and auxiliary systems. These generally rely on electricity to operate. In 2021 the vast majority (87.7%) of electricity generated was from low carbon sources<sup>14</sup>, meaning that electricity from the grid is largely decarbonised.

#### Related Building Regulations energy standards

4.31 Improvements to building regulations introduced in February 2023 set challenging energy and emissions targets for new development, have a strong focus on reducing delivered energy demand, and also introduced provisions compatible with the planned implementation of the NBHS in April 2024. Current energy standards support 'fabric first' solutions to limit space heating demand, use of efficient heat sources to meet that demand, and recognise the effective use of onsite generation to offset energy demand. This approach continues in a current review to deliver a Scottish equivalent to the Passivhaus standard<sup>15</sup>, a standard which emphasises performance of building fabric.

#### Conclusions

4.32 Considering the two aims of Section 3F (to reduce GHG emissions and deploying low and zero-carbon generating technology to do so), the Passivhaus-equivalent standard work clearly demonstrates strong leadership on energy efficiency in new buildings. This is a direct approach to reducing energy demand and therefore GHG emissions related to energy supply and use. NBHS deals with the most significant source of GHG emissions of the fixed services within a building, heating. Building designers under NBHS are not restricted in how they achieve the regulations and so can include low and zero-carbon generating technology. NPF4 provides a strong steer for building designers on GHG emissions reduction and support for the options that may come forward as part of that, including low and zero-carbon generating technologies.

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<sup>14</sup> [Scottish Energy Statistics Hub](#)

<sup>15</sup> [Energy Standards Review – Scottish Passivhaus Equivalent: Working Group](#)

4.33 Policy support for low and zero-carbon generating technologies remains strong and reflects the up-to-date position that the building designer should lead the design solution to emissions reduction within the parameters set by the policy and regulatory framework.

4.34 The locally identified and rising proportion of emissions to be avoided that is included in local development plan Section 3F policies doesn't go as far as the NBHS zero direct emissions from heating. The Section 3F approach also cuts across the NBHS and building regulations approach which removes the target emissions rate calculation. Section 3F policies add complexity by focusing on a proportion of emissions to be avoided via a calculation approach, when remaining emissions beyond heat are likely to be electricity based and the electricity grid is significantly decarbonised. As such, a separate local target in the manner of Section 3F doesn't have clear benefit but does add complexity.

4.35 The awareness raising potential of Section 3F, identified in the 2016<sup>16</sup> research, may not be such a significant issue now, as low and zero-carbon generating technologies have become more common place, including as part of design responses to meeting building regulations. However, NPF4 still clearly supports proposals for such technologies.

4.36 On balance, whilst **take up of the legislation has remained high** since the last annual report in terms of number of adopted LDPs containing policy that appears to respond to Section 3F, **the future effectiveness of Section 3F as an approach for the reduction of GHG emissions from developments after 1 April 2024 is surpassed** because:

- the emissions avoided through NPF4 and NBHS go much further than what Section 3F can achieve;
- the dominant operational GHG emissions source, heat, is addressed by NBHS;
- the generating technology approach of Section 3F is taken forward into NPF4 but as part of a holistic approach to minimising GHGs from new buildings;
- attention to the energy efficiency of the building itself remains a high priority and Building Regulations energy standards demonstrate commitment to 'fabric first'; and
- on-building renewable energy sources to provide for building heat demand is one likely response to meeting the NBHS.

## 5. Other Scottish planning system action on emissions from buildings

### Permitted development rights (PDR)

5.1 PDR allow certain types of development to be carried out without a planning application. In doing so, they help provide certainty and save the time and expense associated with applying for planning permission. The Scottish Government is currently undertaking a review of PDR as part of its planning reform programme. Phase 3 of the review is focussed on extending PDR for domestic and

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<sup>16</sup> [The Effectiveness of Greenhouse Gas Emission Policies in Scottish Local Development Plans](#)

non-domestic renewable energy equipment (e.g. solar panels) and thermal efficiency improvements (replacement windows). Proposals were consulted on in 2023; associated regulations are due to be laid in the Scottish Parliament on 28 March 2024 and, subject to Parliamentary scrutiny, come into force on 24 May. This helps to address retrofit action to reduce the emissions associated with the use of existing buildings.

## Embodied emissions

5.2 Although Section 3F considers operational emissions from buildings, other emissions associated with buildings are to do with what they are constructed from and the method of construction – embodied emissions. NPF4 Policy 2 ‘Climate mitigation and adaptation’ addresses this through the approach of minimising lifecycle emissions. However, it is also directly addressed in Policy 12 ‘Zero waste’, which is clear that development proposals will be supported where they use materials with the lowest forms of embodied emissions, such as recycled and natural construction materials.

## 6. Need for the legislation

6.1 Section 73(2) of the Climate Change (Scotland) Act 2009 requires ‘an assessment of the continuing need or otherwise’ for Section 3F. If it is found ‘no longer to be necessary’ it, and Section 73, may be repealed by order.

### Previous annual report

6.2 The previous annual report noted in its conclusion:  
‘...that changes planned in building and heat standards may mean that Section 3F may not be required in the future.’

### Legislation surpassed

6.3 It has already been established in this report that the effectiveness of the Section 3F legislation will be surpassed by the coming into force of NBHS. The Section 3F approach will be considering a smaller pool of emissions from new buildings once heating emissions are addressed.

6.4 Section 3F was introduced at a time when there was less national policy support for building level low and zero-carbon generating technologies, when there were higher emissions from new buildings and the national electricity grid, and before the new system of development planning had been considered. It focused on avoiding emissions from the use of new buildings through the use of low and zero-carbon generating technologies. National policies now go further and consider lifecycle as well as in-use emissions. National policies have targeted heating related emissions as a significant source. National policies look not for a proportion of emissions to be avoided, but for there to be zero direct heating emissions and for lifecycle emissions to be minimised.

## Interaction with NBHS, building regulations and compliance calculation

6.5 It is unlikely to be possible to simply say in decision making on individual planning applications that Section 3F related policy has been achieved because the building has been designed to meet NBHS and associated building regulations. This is because the alternative position of a fossil-fuelled on-site heating source won't be permissible for building warrant purposes.

6.6 In practical terms application of Section 3F and NBHS together means needing energy output of applied low and zero-carbon generating technologies beyond what is needed to meet NBHS. In addition, a calculation to demonstrate the Section 3F portion would be required, that isn't required for the NBHS element.

6.7 Policies responding to Section 3F are predominately based on building regulations targets and consequently the building regulations compliance methodology can be important. That methodology will be withdrawn from 1 April 2024 and is not being replaced in Scotland, although will remain in place at a UK level. Emissions calculation is likely to form part of demonstrating compliance with NPF4 Policy 2, and the Energy Performance Certificate (EPC) system remains in place and includes reporting on present renewable energy systems.

6.8 The focus of Section 3F under NBHS will need to shift to non-heating fixed services (see paragraph 4.30). The electricity source for those is already significantly decarbonised at a source level. The application of a generating technology based approach to further emissions reduction may not be optimal, there may be other approaches, such as the passive approaches to temperature management highlighted in NPF4 Policy 19, that could be deployed.

## Resource implications

6.9 The practical aspects of applying Section 3F type policies translate into a resource commitment for planning authorities and developers, in understanding how Section 3F type approaches can be achieved within the broader NPF4 and NBHS context. Resource commitments will also be required for planning authorities and stakeholders in preparing and engaging on the content of new style LDPs under the new planning system, where Section 3F policies will need to be included, in contrast to the new approach to development planning, that doesn't require local development plans to repeat national planning policies. As such there are burdens on planning authorities, developers, and stakeholders in the continued application of Section 3F.

## Conclusions

6.10 With the new system for new style local development plans in place, NPF4 providing a holistic planning approach to reducing emissions from new development, the introduction of NBHS from 1 April 2024, and the consequent withdrawal of compliance calculation methodology through building standards, on balance it is concluded that **after 1 April 2024 the latest policy and regulatory position goes beyond what Section 3F can achieve and that the requirement to include policies within development plans under Section 3F is no longer necessary.**

6.11 Removing Section 3F following the introduction of NBHS means there is no break in the overall policy support and push for GHG emissions reduction from new buildings, with low and zero-carbon generating technologies remaining supported.

6.12 Furthermore, removing Section 3F ensures that resources are used most efficiently and reflects a natural progression of policy that forms internationally strong leadership on emissions reduction, which will continue as NPF4 and NBHS are applied. NPF4, LDPs and NBHS will align over time as new style LDPs are adopted.

## 7. Next Steps

7.1 The conclusion that the requirement contained in section 3F is no longer necessary enables Scottish Ministers to prepare an Order to repeal Section 3F, as provided for by Section 73(2) of the Climate Change (Scotland) Act 2009.

7.2 Given the conclusions of this report, work will be commenced to prepare the repeal Order.

7.3 In addition, it is not anticipated that further annual reports will be required in advance of a repeal Order being prepared. Reference back to this report for the basis of preparation of the Order should be sufficient.

7.4 For the period between 1 April 2024 and future repeal of the legislation, Section 3F remains in force and applicable to the preparation of LDPs.



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